

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MARK B. KELLER and ANNA KELLER,	:	
h/w	:	
	:	
Plaintiffs,	:	
	:	CIVIL ACTION NO.:
v.	:	
	:	
SHAW MICHAEL THOMAS and	:	
MILLER TRANSPORTERS, INC.	:	
	:	
Defendants.	:	

NOTICE OF REMOVAL OF ACTION

Defendant, Miller Transporters, Inc., by and through its attorneys, Rawle & Henderson LLP, respectfully avers, as follows:

1. This action was filed on or about May 29, 2002, in the Court of Common Pleas for Bucks County. The Complaint, being the original process in this case, were first received by defendant, Miller Transporters, Inc., no earlier than May 30, 2002. See Exhibit A - Plaintiff's Complaint, with enclosure letter to Miller Transporters, Inc.

2. To the best of defendant's knowledge, information and belief, service has not yet been obtained on defendant, Michael Thomas Shaw, who is incorrectly identified in the Complaint as Shaw Michael Thomas. See Exhibit B - Copy of Dockets.

3. Accordingly, this Notice of Removal is filed within the time provided by 28 U.S.C. §1446(b).

4. This action satisfies the requirements for removal within the meaning of 28 U.S.C. §1332 in that:

(a) Plaintiffs' and Defendants' citizenship are diverse;

- 1) Plaintiffs are residents and citizens of the Commonwealth of Pennsylvania. Plaintiffs reside at 363 Gardner Street, Philadelphia, PA 19116; and
 - 2) Defendants are citizens of states other than Pennsylvania. Defendant, Miller Transporters, Inc., is incorporated under the laws of the State of Mississippi with its principal place of business located in Jackson, Mississippi. Defendant, Michael Thomas Shaw, is a citizen of a State other than Pennsylvania.
 - 3) Diversity of citizenship existed at the time the action sought to be removed was commenced and continues to the time of the filing of this Notice.
- (b) The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.
- 1) In the Complaint, plaintiffs allege, *inter alia*, the following damages, which “are or may be serious and permanent”:
Bulging annuli at L2-3, L3-4, L4-5 and L5-S1, acute moderate L5 radiculopathy on the left side, acute post-traumatic cervical, dorsal and lumbosacral spine sprain and strain, acute post-traumatic trapezius myofascitis, acute post-traumatic stress disorder, possible post-traumatic concussion syndrome, acute post-traumatic cephalgia, acute post-traumatic left wrist contusion/sprain, post-traumatic contusion with hematoma formation of the left lateral thigh, contusion to the left knee and post-traumatic vertigo with nausea, contusions, abrasions and lacerations, severe damage to his nerves and nervous system and various other ills and injuries.

See Exhibit A, -¶16 of Plaintiff’s Complaint.
 - 2) Plaintiff’s Complaint also alleges that “the injury sustained by plaintiff as set forth above is a serious injury which resulted in serious impairment of a bodily function/permanent serious disfigurement.” See Exhibit A - Plaintiff’s Complaint, ¶19.

3) Plaintiff's Complaint also alleges that plaintiff "has suffered an injury which may be in full or part a cosmetic disfigurement which is or may be permanent, irreparable or severe." See Exhibit A - Plaintiff's Complaint, ¶22.

4) Plaintiff also alleges that, as a result of this accident, plaintiff "has or may suffer a loss of earnings and a severe impairment of his earnings capacity and power." See Exhibit A - Plaintiff's Complaint, ¶24.

5) Finally, plaintiff has pled that the value of this claim exceeds the

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County
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\$50,00
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Exhibit
A -
Plaintif
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Compl
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inter
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5. Therefore, a fair reading of the Complaint indicates that an amount in excess of \$75,000 is at controversy in this case. See Exhibit A - Plaintiffs' Complaint, *inter alia*.

6. Moreover, once plaintiffs obtain proper service on defendant, Michael Thomas Shaw, improperly identified in the Complaint as Shaw Michael Thomas, instant defense counsel will enter an appearance on his behalf as well. In that capacity, defense counsel represents that Michael Thomas Shaw is in agreement with this Removal.

WHEREFORE, defendant, Miller Transporters, Inc., prays that the above action, now

pending against it in Court of Common Pleas of Bucks County, be removed therefrom to this Court.

RAWLE & HENDERSON LLP

By: _____
Timothy J. Abeel
Beth Castelli Fitt
Attorneys for Defendant,
Miller Transporters, Inc.
The Widener Building
One South Penn Square
Philadelphia, PA 19107
(215) 575-4200

Dated:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within-captioned Notice of Removal of Action was served via first-class mail, postage prepaid, on counsel for plaintiff, as follows:

Steven L. Rovner
Rovner, Allen, Rovner, Zimmerman and Nash
175 Bustleton Pike
Feasterville, PA 19053

RAWLE & HENDERSON LLP

Beth Castelli Fitt

Dated:

RAWLE & HENDERSON LLP

By: Timothy J. Abeel
 Identification No. 23104
 Beth Castelli Fitt
 Identification No. 76781
 The Widener Building
 One South Penn Square
 Philadelphia, PA 19107
 (215) 575-4200

Attorneys for Defendant,
 Miller Transporters, Inc.

-----X	
MARK B. KELLER and ANNA KELLER	:
h/w	:
	:
Plaintiffs,	:
	:
v.	:
	:
SHAW MICHAEL THOMAS and	:
MILLER TRANSPORTERS, INC.	:
	:
Defendants.	:
-----X	

IN THE COURT OF COMMON PLEAS
 FOR BUCKS COUNTY

 CIVIL ACTION - LAW

 No. 0203599

**NOTICE OF REMOVAL TO FEDERAL COURT
 PURSUANT TO 28 U.S.C. §1446(d)**

TO THE PROTHONOTARY:

Pursuant to 28 U.S.C. §1446(d), defendant, Miller Transporters, Inc., files herewith a copy of the Notice of Removal which was filed with the United States District Court for the Eastern District of Pennsylvania on June 25, 2002.

RAWLE & HENDERSON LLP

By: _____
 Beth Castelli Fitt
 Attorneys for Defendant,

Miller Transporters, Inc.

Dated:

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the within-captioned Notice of Removal to Federal Court Pursuant to 28 U.S.C. §1446(d) was served via first-class mail, postage prepaid, on counsel for plaintiff, as follows:

Steven L. Rovner
Rovner, Allen, Rovner, Zimmerman and Nash
175 Bustleton Pike
Feasterville, PA 19053

RAWLE & HENDERSON LLP

Beth Castelli Fitt

Dated: